

### **REMARKS**

Applicant appreciates the Examiner's thorough examination of the present application. Applicant has amended claims 1, 6, 7, 15- 19 herein.

Applicant respectfully asserts that the claims are allowable herein over the Examiner's rejection under 35 U.S.C. §102. Applicant respectfully requests favorable reconsideration of the claims based on the amendments and remarks set forth herein.

### **Rejections Under 35 U.S.C. §102 (b)**

The Examiner has rejected claims 1-20 under 35 U.S.C. §102 as being anticipated by Steiner. Applicant respectfully asserts that the claims, as amended herein, and claims depending therefrom overcome and are allowable over the examiner's rejection. Claims 1, 6, 7, 15- 19 have been amended to further distinguish the invention from the Steiner reference.

With regard to the rejection under 35 U.S.C. §102, its is well settled, anticipation requires "identity of invention." *Glaverbel Societe Anonyme v. Northlake Manufacture Mktg. & Supply*, 33 USPQ2d 1496, 1498 (Fed. Cir. 1995). Each and every element recited in a claim must be found in a particular prior art reference and arranged as in the claims. *In re Marshall*, 198 USPQ 344, 346 (CCPA 1978); *Lindemann Maschinenfabrik GMBH*, see *American Hoist and Derrick Company*, 221 USPQ481, 485 (Fed. Cir. 1984). Furthermore, in a rejection under 35 U.S.C. §102 (b) there must be no difference between what is claimed and what is disclosed in the applied reference. *In re Kalm*, 154 USPQ10, 12 (CCPA 1967); *Scripps v. Genentech Inc.*, 18 USPQ2d 1001,1010 (Fed. Cir. 1991).

Claims 1-20 stand rejected as anticipated by Steiner et al. The Steiner reference does not include each and every limitation of the claims as amended herein. Each and every element recited in the claims is not found in the Steiner reference in the manner as arranged in the claims.

Furthermore, there is a definite difference between what is claimed and what is disclosed in the Steiner reference.

The Steiner reference does not include a heater coupled to the reservoir for transferring energy from the heater to the reservoir. The device as disclosed in Steiner does not controllably add energy to the reservoir to preheat the reservoir before dispensing beverage into the reservoir. As such, there is no "identity of invention" between Steiner and the present claims. As such, Steiner fails to provide each and every element recited in the claims.

Moreover, the limitations, if argued to be found in the Steiner reference, are definitely not arranged in the same manner as in the claims. While there is some form of heating device in Steiner, it is not coupled to the reservoir. In fact, it is actually insulated (see insulation 24) from the reservoir 22.

There are significant differences between what is claimed and what is disclosed in the Steiner reference. As previously argued, Steiner in fact, merely states a temperature range of the chamber having a maximum temperature and a minimum temperature (col. 2, ln. 65 - col. 3, ln. 6). These facts and arguments are further set forth on pages 7 and 8 of the previous Response and will not be repeated herein.

The foregoing passage, facts and arguments, however, provide additional support for the fact that Steiner does not acknowledge or even appreciate a drop in temperature when beverage is dispensed into an "unheated" reservoir. Steiner specifically is intended to reduce the cooling of the coffee in the reservoir (container 21) by minimizing how much heat is absorbed from the reservoir by the outer section of the envelope 40. In other words, Steiner minimizes how much heat is transferred from the reservoir to the chamber 28.

More specifically, as set forth in Steiner:

As a result, it will be seen that there is *no heating of the coffee* effective after the coffee enters the container 21 after the initial brewing and the heating of coffee by the brewing apparatus 10. As a result of this *lack of any need for heating the coffee* after it is brewed and during storage, the original desired flavor of the brewed coffee is maintained. (col. 3, ln. 26 - 32, emphasis added).

In other words, it appears Steiner anticipates losing heat from the reservoir to the chamber. However, Steiner appears to try to reduce the rate of transfer of heat from the reservoir to the chamber by providing some heat in the chamber.

This is not the same as adding heat to the beverage in the reservoir, which Steiner specifically states it does not do. As noted above, "there is *no heating of the coffee* effected after the coffee enters the container 21 after the initial brewing" (col. 3, lns. 26 - 28). In contrast, the claims as amended herein specifically include "transferring energy from the heater to the reservoir". This specifically identifies a transfer of heat energy to the reservoir and hence the coffee. Moreover, as claimed, heat is transferred to the reservoir even before coffee is dispensed into the reservoir so as to minimize the loss of heat from the coffee to the reservoir after being dispensed.

In contrast, the Steiner device does not anticipate heating the reservoir before dispensing coffee into it. Steiner prevents adding heat to the reservoir, because otherwise to do so would cause heating of the coffee after it enters the container. These distinctions and problems with Steiner show that Steiner did not understand or appreciate the problem of heat loss upon dispensing beverage to a reservoir. This is further highlighted by Steiner's use of multiple layers of insulation such that any heat migrating from the coffee through the first insulation layer (insulation 24) to the chamber 28 is further slowed by a second insulation layer (insulation 35).

With the foregoing in mind, the amended claims and claims depending therefrom overcome and are allowable over the examiner's rejection under 35 U.S.C. §102 since Steiner fails to provide each and every element of the amended claims as set forth herein. There is a significant difference between what is claimed and what is disclosed in Steiner. With the foregoing in mind, Applicant respectfully requests that the Examiner withdraw the rejection under 35 U.S.C. §102 and allow the amended claims.

If there is any issue remaining to be resolved, the Examiner is invited to telephone the undersigned so that resolution can be promptly effected.

It is requested that, if necessary to effect a timely response, this paper be considered as a Petition for an Extension of Time sufficient to effect a timely response with the fee for such extensions and shortages in other fees, being charged, or any overpayment in fees being credited, to the Account of Barnes & Thornburg, Deposit Account No. 12-0913 (27726-93386).

Respectfully submitted,

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